

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED
U.S. DISTRICT COURT

2007 NOV 21 P 3:02

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLEALON B. MANN; et al.,

Defendants.

DISTRICT OF UTAH

ORDER

BY: _____
DEPUTY CLERK

Case No. 2:04-CV-205

Judge Dee Benson

Before the Court is Plaintiff's unopposed motion for partial summary judgment. Specifically, Plaintiff alleges that there are no genuine issues of material facts as to: (a) whether Clealon B. Mann and Nanell H. Mann are indebted to the United States for outstanding federal income tax liabilities for the tax year 1990; (b) whether Clealon B. Mann is solely indebted to the United States for outstanding federal income tax liabilities for the tax years 1993, 1994, 1995 and 2000; (c) whether the United States' tax liens attached to the Cabin property owned by the Manns; and (d) whether the United States' interest in the Cabin property is superior to the interests of Ronald J. and Marsha M. Paskett. Based upon Tenth Circuit precedent, which holds that a district court may rely on Certificates of Assessment and Payments (Forms 4340) to conclude that valid tax assessments were made when the taxpayer does not present evidence to the contrary, *see, e.g., Guthrie v. Sawyer*, 970 F.2d 733, 738 (10th Cir. 1992), and for the reasons stated in Plaintiff's brief, the Court GRANTS Plaintiff's motion for partial summary judgment.

Accordingly, the Court finds that for the 1990 tax assessment, Clealon B. Mann and Nanell H. Mann are jointly indebted to the United States in the amount of \$68,210.43, plus any statutory penalties and interest as provided by law from February 15, 2007. For the 1993, 1994,

1995 and 2000 tax assessments, Clealon B. Mann is solely indebted to the United States in the amount of \$100,614.94, plus any statutory penalties and interest as provided by law from February 15, 2007. The Court also finds that Clealon and Nanell Mann held legal title to the Cabin property at the time the United States made tax assessments on July 1, 1991 and, therefore, the federal tax lien attached to the Cabin property. Finally, the Court finds that the United States' interest in the Cabin property is superior to any interest Ronald J. and Marsha M. Paskett may have in the property.

IT IS SO ORDERED.

DATED this 21st day of November, 2007.

BY THE COURT:

A handwritten signature in black ink, reading "Dee Benson", written over a horizontal line.

DEE BENSON
United States District Judge